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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,587	12/08/2003	James C. Ehlinger	2003-0189	3906

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Samuel H. Dworetsky  
AT&T Corp.  
P.O. Box 4110  
Middletown, NJ 07748-4110

EXAMINER
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LIEU, JULIE BICHNGOC

ART UNIT	PAPER NUMBER
2636	

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/730,587

Applicant(s)

EHLINGER ET AL.

Examiner

Julie Lieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-13 and 15-20 is/are rejected.
- 7) ☒ Claim(s) 9 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/8/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. Claims 18-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

### ***Claim Objections***

2. Claims 1-9 are objected to because of the following informalities: in claim 1, in the penultimate line, "present" should read "presence". In claim 8, it appears that this claim should be dependent on claim 2 instead of claim 6. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 1, 3-7, 10, 12, and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Parsons et al. (US 2002/0085710 A1).

Claim 1:

Parson et al. (Parson) discloses an arrangement for indicating a status of a target to an entity that attempts to communicate with the target, the arrangement comprising:

- a. at least one sensing device (screen 4A08 in fig. 4A) configured to provide sensing information concerning the target's status in response to an action of the target with respect to the sensing device; and
- b. a monitoring device (fig. 2), configured to receive the sensing information from the at least one sensing device, and to govern communication to the entity of the target's status, the status describing at least the target's present and future ability to communicate with the entity.

Claim 3:

The particular sensing device in Parson is one of a group including:

- a. a cash register;
- b. a computer terminal; and
- c. a time clock.

Claim 4:

The system in Parson includes a database, operatively connected to the monitoring device, and configured to store status information concerning the target, that is, the present or absence, or location of the target.

Claim 5:

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The database in Parson is configured to store status information from a group including:

- a. an indication of the person's presence or absence;
- b. a summary of the person's general work schedule;
- c. an indication of the employee's title, department or other descriptive data;
- d. an indication the person's expected date and time of return;
- e. a description of the nature of the person's absence;
- f. an indication of an alternative individual that callers might connect with in the employee's absence;
- g. an indication of how the database entry was arrived at; and
- h. a history of recent incoming calls to the employee's extension that have gone unanswered.

Claim 6:

In Parson's system:

- a. the target includes a person;
- b. the status includes an indication of whether the person is present or absent;
- c. a given sensing device 4A08 is dedicated to only providing the sensing information to the monitoring device; and
- d. the person must explicitly perform a presence-related action (entering information as described in fig. 4) in order to cause the given sensing device to provide the sensing information.

See figure 4.

Claim 7:

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The given sensing device 4A08 is a person-operated device requiring an explicitly presence-related action to be performed by a person in order to provide the sensing information, the person-operated device being from a group including:

- a. a touch-screen;
- b. a push-button; and
- c. a keyboard.

Claims 10, 12, and 13:

The rejection of claims 10-3 recites the rejection of their corresponding apparatus claims 1, 4, and 6, respectively.

Claims 15-17:

It is inherent that the system in Parson has computer program product including computer executable code and instructions to cause the computer to perform the steps of claims 10-12.

Claims 15 and 20:

The system in Parson performs the method of claims 10 and 12 respectively.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 2, 8, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parsons et al. (US 2002/0085710 A1) in view of Ochiai et al. (US 2005/0180734).

Claim 2:

In Parson's system:

- a. the target includes a person;
- b. the status includes an indication of whether the person is present or absent;
- c. a particular sensing device 4A08 configured to perform both (A) a primary function that is not related to providing the sensing information (data entry), and (B) a secondary function of providing the sensing information (fig. 4A).

The reference fails to disclose that the particular sensing device the particular sensing device provides the sensing information in response to the person's use of the particular sensing device to perform the particular sensing device's primary function, so that the person does not have to explicitly perform any purely presence-related action in order to cause the particular sensing device to communicate the sensing intonation. Nonetheless, the use of sensor for

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detecting the presence of a user at a device so that a particular device function can be performed is known in the art as taught in Ochiai et al. (Ochiai) wherein a sensor is located at display to detect the presence of a person so that advertisements can be presented when the sensor detects the person presence. In light of this teaching, one skilled in the art would have readily recognized adding a user presence sensor in Parson's system because it would provide information as whether the user is at the location or not.

Claim 8:

The use of proximity sensors such as infrared detector, optical detector, and weight detector to detect a person's presence is conventional in the art. Therefore, it would have been obvious to one skilled in the art to use one of these sensors in the combined system of Parsons and Ochiai as desired because they are conventional.

Claim 11:

The rejection of claim 11 recites the rejection of claim 2, except it is a method claim.

Claim 19:

The system in Parson performs the method of claim 11.

***Allowable Subject Matter***

6. Claims 9 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.



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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 571-272-2978. The examiner can normally be reached on MaxiFlex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Julie Lieu', with a long, sweeping horizontal line extending to the right.

Julie Lieu  
Primary Examiner  
Art Unit 2636

Feb 03, 06